

AMENDED IN ASSEMBLY MAY 3, 2010
AMENDED IN ASSEMBLY MARCH 25, 2010
CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1782

Introduced by Assembly Member Harkey

February 9, 2010

An act to amend Section 16418 of the Government Code, to amend ~~Section 218~~ *Sections 218, 17207, and 24347.5* of, and to add Chapter 7 (commencing with Section 199) to Part 1 of Division 1 of, the Revenue and Taxation Code, relating to disaster relief, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1782, as amended, Harkey. Disaster relief.

(1) Existing law authorizes a county board of supervisors to provide by ordinance for the reassessment of property that is damaged or destroyed, without fault on the part of the assessee, by a major misfortune or calamity, upon the application of the assessee or upon the action of the county assessor with the board's approval. With respect to certain counties that have adopted reassessment ordinances and have been declared by the Governor to be in a state of emergency as a result of certain events, existing law provides for state allocations of the estimated amounts of the reductions in property tax revenues resulting in certain fiscal years from reassessments under those ordinances. Existing law also continuously appropriates, without regard to fiscal years, moneys in the Special Fund for Economic Uncertainties for purposes of funding state allocations for specified disaster relief purposes.

This bill would authorize an eligible county, as defined, to apply for state allocations to offset property tax revenue reductions resulting from the reassessment of property that was damaged in a Governor-declared emergency. This bill would make an appropriation by continuously appropriating moneys in the Special Fund for Economic Uncertainties for this purpose.

(2) Existing property tax law provides, pursuant to a specified provision of the California Constitution, for a homeowners' property tax exemption in the amount of \$7,000 of the full value of a "dwelling," as defined.

This bill would provide that any dwelling that qualified for the exemption and that was damaged or destroyed by a natural disaster in a designated area declared by the Governor to be in a state of emergency during a specified period of time, and that has not changed ownership since the commencement date of the disaster, may not be denied the exemption solely on the basis that, as a result of that disaster, the dwelling was temporarily damaged or destroyed or was being reconstructed by the owner, or was temporarily uninhabited as a result of restricted access to the property due to the disaster.

The California Constitution requires the Legislature, in each fiscal year, to reimburse local governments for the revenue losses incurred by those governments in that fiscal year as a result of the homeowners' property tax exemption.

This bill would state the intent of the Legislature to make this required reimbursement in the annual Budget Act.

(3) The Personal Income Tax Law and the Corporation Tax Law provide for the carryover to specified taxable years of specified losses sustained as a result of certain disasters occurring in California in an area determined by the President of the United States to warrant specified federal assistance, or proclaimed by the Governor to be in a state of emergency.

This bill would extend these provisions to any losses sustained as a result of a disaster that is the subject of a Governor's proclamation of a state of emergency. This bill would authorize a taxpayer to make an election to claim a deduction for those losses on the tax return for the preceding year.

~~(3)~~

(4) By requiring local tax officials to implement new criteria under the homeowners' exemption, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 16418 of the Government Code is
2 amended to read:
3 16418. (a) The Special Fund for Economic Uncertainties is
4 hereby created in the State Treasury and is continuously
5 appropriated for the purposes of this section. The contingency
6 reserve for economic uncertainties established within the General
7 Fund by Section 12.3 of the Budget Act of 1980 is hereby
8 discontinued, and any balance in that reserve shall be transferred
9 to the Special Fund for Economic Uncertainties. This special fund
10 represents a reserve fund within the meaning of Section 5 of Article
11 XIII B of the California Constitution. Notwithstanding Sections
12 16310 and 16314, the Controller may transfer as necessary from
13 the Special Fund for Economic Uncertainties or from the special
14 accounts in the General Fund to the General Fund amounts that
15 are needed to meet cash needs of the General Fund. The Controller
16 shall return all of the moneys so transferred without payment of
17 interest as soon as there are sufficient moneys in the General Fund.
18 (b) The Controller shall transfer from the Special Fund for
19 Economic Uncertainties to the unappropriated balance of the
20 General Fund an amount necessary to eliminate any General Fund
21 deficit as of the end of each fiscal year, commencing as of June
22 30, 1985. The amount of transfer for each fiscal year shall be
23 determined on the basis of the State of California Preliminary
24 Annual Report—Accrual Basis, for that fiscal year. Any subsequent
25 adjustments shall be determined jointly by the Controller and the
26 Director of Finance.
27 (c) Notwithstanding Section 13340, moneys in the Special Fund
28 for Economic Uncertainties are hereby continuously appropriated

1 without regard to fiscal years to the Director of Finance for the
2 purpose of allocating funds for disaster relief pursuant to Chapter
3 5 (commencing with Section 194) and Chapter 6 (commencing
4 with Section 197) of Part 1 of Division 1 of the Revenue and
5 Taxation Code, and for making allocations to counties pursuant
6 to Chapter 7 (commencing with Section 199) of Part 1 of Division
7 1 of the Revenue and Taxation Code. However, any allocation
8 made by the director pursuant to this subdivision shall not be made
9 sooner than 30 days after notification in writing of the necessity
10 therefor is provided to the Joint Legislative Budget Committee.

11 (d) For budgeting and accounting purposes, any appropriations
12 heretofore or hereafter made specifically from the Special Fund
13 for Economic Uncertainties, other than appropriations contained
14 in this section, shall be deemed an appropriation from the General
15 Fund. For yearend reporting purposes, the Controller shall add the
16 balance in the Special Fund for Economic Uncertainties to the
17 balance in the General Fund so as to show the total moneys then
18 available for General Fund purposes.

19 (e) (1) Notwithstanding Section 13340, there is hereby
20 appropriated from the General Fund, without regard to fiscal years,
21 for transfer by the Controller to the Special Fund for Economic
22 Uncertainties as of the end of each fiscal year the unencumbered
23 balance in the General Fund.

24 (2) If at the end of any fiscal year in which it has been
25 determined that there are revenues in excess of the amount that
26 may be appropriated, as defined in subdivision (a) of Section 2 of
27 Article XIII B of the California Constitution, the transfer pursuant
28 to paragraph (1) shall be reduced by the amount of these excess
29 revenues. The estimates of the transfer shall be made jointly by
30 the Department of Finance and the Legislative Analyst's Office.

31 SEC. 2. Chapter 7 (commencing with Section 199) is added
32 to Part 1 of Division 1 of the Revenue and Taxation Code, to read:

33
34 CHAPTER 7. EMERGENCY PROPERTY TAX REASSESSMENT
35 REIMBURSEMENT
36

37 199. For purposes of this chapter, all of the following apply:

38 (a) "Basic state aid school district" means any school district
39 that does not receive a state apportionment pursuant to subdivision
40 (h) of Section 42238 of the Education Code, but receives from the

1 state only a basic apportionment pursuant to Section 6 of Article
2 IX of the California Constitution.

3 (b) "Certification date" shall be established by the Director of
4 Finance as a reasonable amount of time after the Governor-declared
5 state of emergency by which a county auditor may reasonably
6 certify the estimate described in subdivision (a) of Section 199.1.

7 (c) "Eligible county" has the same meaning as specified in
8 subdivision (a) of Section 194.

9 (d) "Reimbursement date" shall be established by the Controller
10 as a reasonable amount of time after the allocation described in
11 subdivision (b) of Section 199.1 by which a county may reasonably
12 compute the amounts described in subdivision (c) of Section 199.1.

13 (e) *"Fiscal year" shall be established by the Director of Finance*
14 *for purposes of the estimate described in subdivision (a) of Section*
15 *199.1.*

16 199.1. (a) On or before the certification date, the auditor of an
17 eligible county, which was the subject of the Governor's
18 proclamation of a state of emergency, shall certify to the Director
19 of Finance an estimate of the total amount of the reduction in
20 property tax revenues on both the regular secured roll and the
21 supplemental rolls for the ~~designated period of time in which an~~
22 ~~emergency was declared~~ *fiscal year established by the Director*
23 *of Finance*, resulting from the reassessment by the county assessor
24 pursuant to paragraph (1) of subdivision (a) of Section 170 of those
25 properties that are eligible properties as a result of that disaster,
26 except that the amount certified shall not include any estimated
27 property tax revenue reductions to school districts, other than basic
28 state aid school districts, and county offices of education.

29 (b) After the auditor of the eligible county has made the
30 certification described in subdivision (a), the Director of Finance
31 shall, within 30 days after verification of the county auditor's
32 estimate, certify this amount to the Controller for allocation to the
33 county. Upon receipt of certification from the Director of Finance,
34 the Controller shall make the appropriate allocation to the county
35 within 10 working days.

36 (c) On or before the reimbursement date, an eligible county
37 shall compute and remit to the Controller for deposit in the General
38 Fund an amount equal to the amount allocated to it by the
39 Controller pursuant to subdivision (b), less the actual amount of
40 its property tax revenue lost on the regular secured and

1 supplemental rolls with respect to those eligible properties
2 described in subdivision (a) as a result of the reassessment of those
3 properties pursuant to paragraph (1) of subdivision (a) of Section
4 170, excluding any property tax revenue lost by school districts,
5 other than basic state aid school districts, and county offices of
6 education. If the actual amount of property tax revenue lost by the
7 eligible county in the immediately preceding fiscal year, as
8 described and limited in the preceding sentence, exceeds the
9 amount allocated by the Controller to that county pursuant to
10 subdivision (b), the Controller shall allocate the amount of that
11 excess to that county.

12 SEC. 3. Section 218 of the Revenue and Taxation Code is
13 amended to read:

14 218. (a) The homeowners' property tax exemption is in the
15 amount of the assessed value of the dwelling specified in this
16 section, as authorized by subdivision (k) of Section 3 of Article
17 XIII of the California Constitution. That exemption shall be in the
18 amount of seven thousand dollars (\$7,000) of the full value of the
19 dwelling.

20 (b) The exemption does not extend to property that is rented,
21 vacant, under construction on the lien date, or that is a vacation or
22 secondary home of the owner or owners, nor does it apply to
23 property on which an owner receives the veteran's exemption.

24 (c) For purposes of this section, all of the following apply:

25 (1) "Owner" includes a person purchasing the dwelling under
26 a contract of sale or who holds shares or membership in a
27 cooperative housing corporation, which holding is a requisite to
28 the exclusive right of occupancy of a dwelling.

29 (2) (A) "Dwelling" means a building, structure, or other shelter
30 constituting a place of abode, whether real property or personal
31 property, and any land on which it may be situated. A two-dwelling
32 unit shall be considered as two separate single-family dwellings.

33 (B) "Dwelling" includes the following:

34 (i) A single-family dwelling occupied by an owner thereof as
35 his or her principal place of residence on the lien date.

36 (ii) A multiple-dwelling unit occupied by an owner thereof on
37 the lien date as his or her principal place of residence.

38 (iii) A condominium occupied by an owner thereof as his or her
39 principal place of residence on the lien date.

1 (iv) Premises occupied by the owner of shares or a membership
2 interest in a cooperative housing corporation, as defined in
3 subdivision (i) of Section 61, as his or her principal place of
4 residence on the lien date. Each exemption allowed pursuant to
5 this subdivision shall be deducted from the total assessed valuation
6 of the cooperative housing corporation. The exemption shall be
7 taken into account in apportioning property taxes among owners
8 of share or membership interests in the cooperative housing
9 corporations so as to benefit those owners who qualify for the
10 exemption.

11 (d) Any dwelling that qualified for an exemption under this
12 section prior to October 20, 1991, that was damaged or destroyed
13 by fire in a disaster, as declared by the Governor, occurring on or
14 after October 20, 1991, and before November 1, 1991, and that
15 has not changed ownership since October 20, 1991, shall not be
16 disqualified as a “dwelling” or be denied an exemption under this
17 section solely on the basis that the dwelling was temporarily
18 damaged or destroyed or was being reconstructed by the owner.

19 (e) Any dwelling that qualified for an exemption under this
20 section prior to October 15, 2003, that was damaged or destroyed
21 by fire or earthquake in a disaster, as declared by the Governor,
22 during October, November, or December 2003, and that has not
23 changed ownership since October 15, 2003, shall not be
24 disqualified as a “dwelling” or be denied an exemption under this
25 section solely on the basis that the dwelling was temporarily
26 damaged or destroyed or was being reconstructed by the owner.

27 (f) Any dwelling that qualified for an exemption under this
28 section prior to June 3, 2004, that was damaged or destroyed by
29 flood in a disaster, as declared by the Governor, during June 2004,
30 and that has not changed ownership since June 3, 2004, shall not
31 be disqualified as a “dwelling” or be denied an exemption under
32 this section solely on the basis that the dwelling was temporarily
33 damaged or destroyed or was being reconstructed by the owner.

34 (g) Any dwelling that qualified for an exemption under this
35 section prior to August 11, 2004, that was damaged or destroyed
36 by the wildfires and any other related casualty that occurred in
37 Shasta County in a disaster, as declared by the Governor, during
38 August 2004, and that has not changed ownership since August
39 11, 2004, shall not be disqualified as a “dwelling” or be denied an
40 exemption under this section solely on the basis that the dwelling

1 was temporarily damaged or destroyed or was being reconstructed
2 by the owner.

3 (h) Any dwelling that qualified for an exemption under this
4 section prior to December 28, 2004, that was damaged or destroyed
5 by severe rainstorms, floods, mudslides, or the accumulation of
6 debris in a disaster, as declared by the Governor, during December
7 2004, January 2005, February 2005, March 2005, or June 2005,
8 and that has not changed ownership since December 28, 2004,
9 shall not be disqualified as a “dwelling” or be denied an exemption
10 under this section solely on the basis that the dwelling was
11 temporarily damaged or destroyed or was being reconstructed by
12 the owner, or was temporarily uninhabited as a result of restricted
13 access to the property due to floods, mudslides, the accumulation
14 of debris, or washed-out or damaged roads.

15 (i) Any dwelling that qualified for an exemption under this
16 section prior to December 19, 2005, that was damaged or destroyed
17 by severe rainstorms, floods, mudslides, or the accumulation of
18 debris in a disaster, as declared by the Governor in January 2006,
19 April 2006, May 2006, or June 2006, and that has not changed
20 ownership since December 19, 2005, shall not be disqualified as
21 a “dwelling” or be denied an exemption under this section solely
22 on the basis that the dwelling was temporarily damaged or
23 destroyed or was being reconstructed by the owner, or was
24 temporarily uninhabited as a result of restricted access to the
25 property due to floods, mudslides, the accumulation of debris, or
26 washed-out or damaged roads.

27 (j) Any dwelling that qualified for an exemption under this
28 section prior to July 9, 2006, that was damaged or destroyed by
29 the wildfires and any other related casualty that occurred in the
30 County of San Bernardino, as declared by the Governor in July
31 2006, and that has not changed ownership since July 9, 2006, shall
32 not be disqualified as a “dwelling” or be denied an exemption
33 under this section solely on the basis that the dwelling was
34 temporarily damaged or destroyed or was being reconstructed by
35 the owner, or was temporarily uninhabited as a result of restricted
36 access to the property due to the wildfires.

37 (k) Any dwelling that qualified for an exemption under this
38 section prior to the commencement dates of the wildfires listed in
39 the Governor’s proclamations of 2006 that was damaged or
40 destroyed by the wildfires and any other related casualty that

1 occurred in the Counties of Riverside and Ventura, and that has
2 not changed ownership since the commencement dates of these
3 disasters as listed in the Governor's proclamations of 2006 shall
4 not be disqualified as a "dwelling" or be denied an exemption
5 under this section solely on the basis that the dwelling was
6 temporarily damaged or destroyed or was being reconstructed by
7 the owner, or was temporarily uninhabited as a result of restricted
8 access to the property due to the wildfires.

9 (l) Any dwelling that qualified for an exemption under this
10 section prior to January 11, 2007, that was damaged or destroyed
11 by severe freezing conditions, commencing January 11, 2007, and
12 any other related casualty that occurred in the Counties of El
13 Dorado, Fresno, Imperial, Kern, Kings, Madera, Merced, Monterey,
14 Riverside, San Bernardino, San Diego, San Luis Obispo, Santa
15 Barbara, Santa Clara, Stanislaus, Tulare, Ventura, and Yuba as a
16 result of a disaster as declared by the Governor, and that has not
17 changed ownership since January 11, 2007, shall not be disqualified
18 as a "dwelling" or be denied an exemption under this section solely
19 on the basis that the dwelling was temporarily damaged or
20 destroyed or was being reconstructed by the owner, or was
21 temporarily uninhabited as a result of restricted access to the
22 property due to severe freezing conditions.

23 (m) Any dwelling that qualified for an exemption under this
24 section prior to June 24, 2007, that was damaged or destroyed by
25 the wildfires and any other related casualty that occurred as a result
26 of this disaster in the County of El Dorado, as declared by the
27 Governor in June 2007, and that has not changed ownership since
28 June 24, 2007, shall not be disqualified as a "dwelling" or be denied
29 an exemption under this section solely on the basis that the
30 dwelling was temporarily damaged or destroyed or was being
31 reconstructed by the owner, or was temporarily uninhabited as a
32 result of restricted access to the property due to the wildfires.

33 (n) Any dwelling that qualified for an exemption under this
34 section prior to July 4, 2007, that was damaged or destroyed by
35 the Zaca Fire and any other related casualty that occurred as a
36 result of this disaster in the Counties of Santa Barbara and Ventura,
37 as declared by the Governor in August 2007, and that has not
38 changed ownership since July 4, 2007, may not be denied an
39 exemption solely on the basis that the dwelling was temporarily
40 damaged or destroyed or was being reconstructed by the owner,

1 or was temporarily uninhabited as a result of restricted access to
2 the property due to the Zaca Fire.

3 (o) Any dwelling that qualified for an exemption under this
4 section prior to July 6, 2007, that was damaged or destroyed by
5 the wildfires and any other related casualty that occurred as a result
6 of this disaster in the County of Inyo, as declared by the Governor
7 in July 2007, and that has not changed ownership since July 6,
8 2007, may not be denied an exemption solely on the basis that the
9 dwelling was temporarily damaged or destroyed or was being
10 reconstructed by the owner, or was temporarily uninhabited as a
11 result of restricted access to the property due to the wildfires.

12 (p) Any dwelling that qualified for an exemption under this
13 section prior to the commencement dates of the wildfires listed in
14 the Governor's disaster proclamations of September 15, 2007, and
15 October 21, 2007, that was damaged or destroyed by the wildfires
16 and any other related casualty that occurred in the Counties of Los
17 Angeles, Orange, Riverside, San Bernardino, San Diego, Santa
18 Barbara, and Ventura, and that has not changed ownership since
19 the commencement dates of these disasters as listed in the
20 proclamations shall not be disqualified as a "dwelling" or be denied
21 an exemption under this section solely on the basis that the
22 dwelling was temporarily damaged or destroyed or was being
23 reconstructed by the owner, or was temporarily uninhabited as a
24 result of restricted access to the property due to the wildfires.

25 (q) Any dwelling that qualified for an exemption under this
26 section prior to October 20, 2007, that was damaged or destroyed
27 by the extremely strong and damaging winds and any other related
28 casualty that occurred as a result of this disaster in the County of
29 Riverside, as declared by the Governor in November 2007, and
30 that has not changed ownership since October 20, 2007, shall not
31 be disqualified as a "dwelling" or be denied an exemption under
32 this section solely on the basis that the dwelling was temporarily
33 damaged or destroyed or was being reconstructed by the owner,
34 or was temporarily uninhabited as a result of restricted access to
35 the property due to the extremely strong and damaging winds.

36 (r) Any dwelling that qualified for an exemption under this
37 section prior to the commencement dates of the wildfires listed in
38 the Governor's disaster proclamations of May, June, or July 2008,
39 that was damaged or destroyed by the wildfires and any other
40 related casualty that occurred in the Counties of Butte, Kern,

1 Mariposa, Mendocino, Monterey, Plumas, Santa Clara, Santa Cruz,
2 Shasta, and Trinity and that has not changed ownership since the
3 commencement dates of these disasters as listed in the
4 proclamations shall not be disqualified as a “dwelling” or be denied
5 an exemption under this section solely on the basis that the
6 dwelling was temporarily damaged or destroyed or was being
7 reconstructed by the owner, or was temporarily uninhabited as a
8 result of restricted access to the property due to the wildfires.

9 (s) Any dwelling that qualified for an exemption under this
10 section prior to July 1, 2008, that was damaged or destroyed by
11 the wildfires and any other related casualty that occurred as a result
12 of this disaster in the County of Santa Barbara, as declared by the
13 Governor in July 2008, and that has not changed ownership since
14 July 1, 2008, may not be denied an exemption solely on the basis
15 that the dwelling was temporarily damaged or destroyed or was
16 being reconstructed by the owner, or was temporarily uninhabited
17 as a result of restricted access to the property due to the wildfires.

18 (t) Any dwelling that qualified for an exemption under this
19 section prior to July 12, 2008, that was damaged or destroyed by
20 severe rainstorms, floods, landslides, or the accumulation of debris
21 in a disaster, as declared by the Governor, in July 2008, and that
22 has not changed ownership since July 12, 2008, shall not be
23 disqualified as a “dwelling” or be denied an exemption under this
24 section solely on the basis that the dwelling was temporarily
25 damaged or destroyed or was being reconstructed by the owner,
26 or was temporarily uninhabited as a result of restricted access to
27 the property due to floods, landslides, the accumulation of debris,
28 or washed-out or damaged roads.

29 (u) Any dwelling that qualified for an exemption under this
30 section prior to May 22, 2008, that was damaged or destroyed by
31 the wildfires and any other related casualty that occurred as a result
32 of this disaster in the County of Humboldt, as declared by the
33 Governor in August 2008, and that has not changed ownership
34 since May 22, 2008, may not be denied an exemption solely on
35 the basis that the dwelling was temporarily damaged or destroyed
36 or was being reconstructed by the owner, or was temporarily
37 uninhabited as a result of restricted access to the property due to
38 the wildfires.

39 (v) Any dwelling that qualified for an exemption under this
40 section prior to the commencement dates of the wildfires that were

1 the subject of the Governor's disaster proclamations of October
2 13, 2008, and November 15, 2008, that was damaged or destroyed
3 by the wildfires and any other related casualty that occurred in the
4 Counties of Los Angeles and Ventura and that has not changed
5 ownership since the commencement dates of these wildfires, shall
6 not be disqualified as a "dwelling" or be denied an exemption
7 under this section solely on the basis that the dwelling was
8 temporarily damaged or destroyed or was being reconstructed by
9 the owner, or was temporarily uninhabited as a result of restricted
10 access to the property due to the wildfires.

11 (w) Any dwelling that qualified for an exemption under this
12 section prior to November 13, 2008, that was damaged or destroyed
13 by the wildfires and any other related casualty that occurred as a
14 result of this disaster in the County of Santa Barbara, as declared
15 by the Governor in November 2008, and that has not changed
16 ownership since November 13, 2008, shall not be disqualified as
17 a "dwelling" or be denied an exemption under this section solely
18 on the basis that the dwelling was temporarily damaged or
19 destroyed or was being reconstructed by the owner, or was
20 temporarily uninhabited as a result of restricted access to the
21 property due to the wildfires.

22 (x) Any dwelling that qualified for an exemption under this
23 section prior to the commencement dates of the wildfires listed in
24 the Governor's disaster proclamations of November 15, 2008, and
25 November 17, 2008, that was damaged or destroyed by the
26 wildfires and any other related casualty that occurred as a result
27 of this disaster in the Counties of Orange, Riverside, and San
28 Bernardino, as declared by the Governor in November 2008, and
29 that has not changed ownership since the commencement dates of
30 these disasters as listed in the proclamations, shall not be
31 disqualified as a "dwelling" or be denied an exemption under this
32 section solely on the basis that the dwelling was temporarily
33 damaged or destroyed or was being reconstructed by the owner,
34 or was temporarily uninhabited as a result of restricted access to
35 the property due to the wildfires.

36 (y) Any dwelling that qualified for an exemption under this
37 section prior to May 5, 2009, that was damaged or destroyed by
38 the wildfires and any other related casualty that occurred as a result
39 of this disaster in the County of Santa Barbara, as declared by the
40 Governor in May 2009, and that has not changed ownership since

1 May 5, 2009, shall not be disqualified as a “dwelling” or be denied
2 an exemption under this section solely on the basis that the
3 dwelling was temporarily damaged or destroyed or was being
4 reconstructed by the owner, or was temporarily uninhabited as a
5 result of restricted access to the property due to the wildfires.

6 (z) A dwelling that qualified for an exemption under this section
7 and that was damaged or destroyed by a natural disaster in a
8 designated area declared by the Governor to be in a state of
9 emergency ~~during a specified period of time~~, and that has not
10 changed ownership since the commencement date of the disaster
11 *as specified in the Governor’s proclamation*, shall not be
12 disqualified as a “dwelling” or be denied an exemption under this
13 section solely on the basis that, as a result of that disaster, the
14 dwelling was temporarily damaged or destroyed or was being
15 reconstructed by the owner, or was temporarily uninhabited as a
16 result of restricted access to the property due to the disaster.

17 (aa) The exemption provided for in subdivision (k) of Section
18 3 of Article XIII of the California Constitution shall first be applied
19 to the building, structure, or other shelter and the excess, if any,
20 shall be applied to any land on which it may be located.

21 *SEC. 4. Section 17207 of the Revenue and Taxation Code is*
22 *amended to read:*

23 17207. (a) An excess disaster loss, as defined in subdivision
24 (c), shall be carried to other taxable years as provided in
25 subdivision (b), with respect to losses resulting from any of the
26 following disasters:

27 (1) Forest fire or any other related casualty occurring in 1985
28 in California.

29 (2) Storm, flooding, or any other related casualty occurring in
30 1986 in California.

31 (3) Any loss sustained during 1987 as a result of a forest fire or
32 any other related casualty.

33 (4) Earthquake, aftershock, or any other related casualty
34 occurring in 1987 in California.

35 (5) Earthquake, aftershock, or any other related casualty
36 occurring in 1989 in California.

37 (6) Any loss sustained during 1990 as a result of fire or any
38 other related casualty in California.

39 (7) Any loss sustained as a result of the Oakland/Berkeley Fire
40 of 1991, or any other related casualty.

1 (8) Any loss sustained as a result of storm, flooding, or any
2 other related casualty occurring in February 1992 in California.

3 (9) Earthquake, aftershock, or any other related casualty
4 occurring in April 1992 in the County of Humboldt.

5 (10) Riots, arson, or any other related casualty occurring in
6 April or May 1992 in California.

7 (11) Any loss sustained as a result of the earthquakes that
8 occurred in the County of San Bernardino in June and July of 1992,
9 or any other related casualty.

10 (12) Any loss sustained as a result of the Fountain Fire that
11 occurred in the County of Shasta, or as a result of either of the
12 fires in the Counties of Calaveras and Trinity that occurred in
13 August 1992, or any other related casualty.

14 (13) Any loss sustained as a result of storm, flooding, or any
15 other related casualty that occurred in the Counties of Alpine,
16 Contra Costa, Fresno, Humboldt, Imperial, Lassen, Los Angeles,
17 Madera, Mendocino, Modoc, Monterey, Napa, Orange, Plumas,
18 Riverside, San Bernardino, San Diego, Santa Barbara, Sierra,
19 Siskiyou, Sonoma, Tehama, Trinity, and Tulare, and the City of
20 Fillmore in January 1993.

21 (14) Any loss sustained as a result of a fire that occurred in the
22 Counties of Los Angeles, Orange, Riverside, San Bernardino, San
23 Diego, and Ventura, during October or November of 1993, or any
24 other related casualty.

25 (15) Any loss sustained as a result of the earthquake, aftershocks,
26 or any other related casualty that occurred in the Counties of Los
27 Angeles, Orange, and Ventura on or after January 17, 1994.

28 (16) Any loss sustained as a result of a fire that occurred in the
29 County of San Luis Obispo during August of 1994, or any other
30 related casualty.

31 (17) Any loss sustained as a result of the storms or flooding
32 occurring in 1995, or any other related casualty, sustained in any
33 county of this state subject to a disaster declaration with respect
34 to the storms and flooding.

35 (18) Any loss sustained as a result of the storms or flooding
36 occurring in December 1996 or January 1997, or any related
37 casualty, sustained in any county of this state subject to a disaster
38 declaration with respect to the storms or flooding.

39 (19) Any loss sustained as a result of the storms or flooding
40 occurring in February 1998, or any related casualty, sustained in

1 any county of this state subject to a disaster declaration with respect
2 to the storms or flooding.

3 (20) Any loss sustained as a result of a freeze occurring in the
4 winter of 1998–99, or any related casualty, sustained in any county
5 of this state subject to a disaster declaration with respect to the
6 freeze.

7 (21) Any loss sustained as a result of an earthquake occurring
8 in September 2000, that was included in the Governor’s
9 proclamation of a state of emergency for the County of Napa.

10 (22) Any loss sustained as a result of the Middle River levee
11 break in San Joaquin County occurring in June 2004.

12 (23) Any losses sustained as a result of the fires that occurred
13 in the Counties of Los Angeles, Riverside, San Bernardino, San
14 Diego, and Ventura in October and November 2003, or as a result
15 of floods, mudflows, and debris flows, directly related to fires.

16 (24) Any losses sustained in the Counties of Santa Barbara and
17 San Luis Obispo as a result of the San Simeon earthquake,
18 aftershocks, and any other related casualties.

19 (25) Any losses sustained as a result of the wildfires that
20 occurred in Shasta County, commencing August 11, 2004, and
21 any other related casualty.

22 (26) Any loss sustained in the Counties of Kern, Los Angeles,
23 Orange, Riverside, San Bernardino, San Diego, Santa Barbara,
24 and Ventura as a result of the severe rainstorms, related flooding
25 and slides, and any other related casualties, that occurred in
26 December 2004, January 2005, February 2005, March 2005, or
27 June 2005.

28 (27) Any loss sustained in the Counties of Alameda, Alpine,
29 Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El
30 Dorado, Fresno, Humboldt, Kings, Lake, Lassen, Madera, Marin,
31 Mariposa, Mendocino, Merced, Monterey, Napa, Nevada, Placer,
32 Plumas, Sacramento, San Joaquin, San Luis Obispo, San Mateo,
33 Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus,
34 Sutter, Trinity, Tulare, Tuolumne, Yolo, and Yuba as a result of
35 the severe rainstorms, related flooding and slides, and any other
36 related casualties, that occurred in December 2005, January 2006,
37 March 2006, or April 2006.

38 (28) Any loss sustained in the County of San Bernardino as a
39 result of the wildfires that occurred in July 2006.

1 (29) Any loss sustained in the Counties of Riverside and Ventura
2 as a result of wildfires that occurred during the 2006 calendar year.

3 (30) Any loss sustained in the Counties of El Dorado, Fresno,
4 Imperial, Kern, Kings, Madera, Merced, Monterey, Riverside, San
5 Bernardino, San Diego, San Luis Obispo, Santa Barbara, Santa
6 Clara, Stanislaus, Tulare, Ventura, and Yuba that were the subject
7 of the Governor's proclamations of a state of emergency for the
8 severe freezing conditions that occurred in January 2007.

9 (31) Any loss sustained in the County of El Dorado as a result
10 of wildfires that occurred in June 2007.

11 (32) Any loss sustained in the Counties of Santa Barbara and
12 Ventura as a result of the Zaca Fire that occurred during the 2007
13 calendar year.

14 (33) Any loss sustained in the County of Inyo as a result of
15 wildfires that commenced in July 2007.

16 (34) Any loss sustained in the Counties of Los Angeles, Orange,
17 Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura
18 as a result of wildfires that occurred during the 2007 calendar year
19 that were the subject of the Governor's disaster proclamations of
20 September 15, 2007, and October 21, 2007.

21 (35) Any loss sustained in the County of Riverside as a result
22 of extremely strong and damaging winds that occurred in October
23 2007.

24 (36) Any loss sustained in the Counties of Butte, Kern,
25 Mariposa, Mendocino, Monterey, Plumas, Santa Clara, Santa Cruz,
26 Shasta, and Trinity as a result of wildfires that occurred in May or
27 June 2008 that were the subject of the Governor's proclamations
28 of a state of emergency.

29 (37) Any loss sustained in the County of Santa Barbara as a
30 result of wildfires that occurred in July 2008.

31 (38) Any loss sustained in the County of Inyo as a result of the
32 severe rainstorms, related flooding and landslides, and any other
33 related casualties, that occurred in July 2008.

34 (39) Any loss sustained in the County of Humboldt as a result
35 of wildfires that commenced in May 2008.

36 (40) Any loss sustained in the County of Santa Barbara as a
37 result of wildfires that commenced in November 2008.

38 (41) Any loss sustained in the Counties of Los Angeles and
39 Ventura as a result of wildfires that commenced in October 2008

1 or November 2008 that were the subject of the Governor's
2 proclamations of a state of emergency.

3 (42) Any loss sustained in the Counties of Orange, Riverside,
4 and San Bernardino as a result of wildfires that commenced in
5 November 2008.

6 (43) Any loss sustained in the County of Santa Barbara as a
7 result of wildfires that commenced in May 2009.

8 *(44) Any loss sustained as a result of a disaster that is the*
9 *subject of a Governor's proclamation of a state of emergency.*

10 (b) (1) In the case of any loss allowed under Section 165(c) of
11 the Internal Revenue Code, relating to limitation of losses of
12 individuals, any excess disaster loss shall be carried forward to
13 each of the five taxable years following the taxable year for which
14 the loss is claimed. However, if there is any excess disaster loss
15 remaining after the five-year period, then the applicable percentage,
16 as set forth in paragraph (1) of subdivision (b) of Section 17276,
17 of that excess disaster loss shall be carried forward to each of the
18 next 10 taxable years.

19 (2) The entire amount of any excess disaster loss as defined in
20 subdivision (c) shall be carried to the earliest of the taxable years
21 to which, by reason of subdivision (b), the loss may be carried.
22 The portion of the loss which shall be carried to each of the other
23 taxable years shall be the excess, if any, of the amount of excess
24 disaster loss over the sum of the adjusted taxable income for each
25 of the prior taxable years to which that excess disaster loss is
26 carried.

27 (c) "Excess disaster loss" means a disaster loss computed
28 pursuant to Section 165 of the Internal Revenue Code which
29 exceeds the adjusted taxable income of the year of loss or, if the
30 election under Section 165(i) of the Internal Revenue Code is
31 made, the adjusted taxable income of the year preceding the loss.

32 (d) The provisions of this section and Section 165(i) of the
33 Internal Revenue Code shall be applicable to any of the losses
34 listed in subdivision (a) sustained in any county or city in this state
35 which was proclaimed by the Governor to be in a state of disaster.

36 (e) Losses allowable under this section may not be taken into
37 account in computing a net operating loss deduction under Section
38 172 of the Internal Revenue Code.

39 (f) For purposes of this section, "adjusted taxable income" shall
40 be defined by Section 1212(b)(2)(B) of the Internal Revenue Code.

(g) For losses described in paragraphs (15) to ~~(43)~~ (44), inclusive, of subdivision (a), the election under Section 165(i) of the Internal Revenue Code may be made on a return or amended return filed on or before the due date of the return (determined with regard to extension) for the taxable year in which the disaster occurred.

SEC. 5. Section 24347.5 of the Revenue and Taxation Code is amended to read:

24347.5. (a) An excess disaster loss, as defined in subdivision (c), shall be carried to other taxable years as provided in subdivision (b), with respect to losses resulting from any of the following disasters:

(1) Forest fire or any other related casualty occurring in 1985 in California.

(2) Storm, flooding, or any other related casualty occurring in 1986 in California.

(3) Any loss sustained during 1987 as a result of a forest fire or any other related casualty.

(4) Earthquake, aftershock, or any other related casualty occurring in October 1987 in California.

(5) Earthquake, aftershock, or any other related casualty occurring in October 1989 in California.

(6) Any loss sustained during 1990 as a result of fire or any other related casualty in California.

(7) Any loss sustained as a result of the Oakland/Berkeley Fire of 1991, or any other related casualty.

(8) Any loss sustained as a result of storm, flooding, or any other related casualty occurring in February 1992 in California.

(9) Earthquake, aftershock, or any other related casualty occurring in April 1992 in the County of Humboldt.

(10) Riots, arson, or any other related casualty occurring in April or May 1992 in California.

(11) Any loss sustained as a result of the earthquakes or any other related casualty that occurred in the County of San Bernardino in June and July of 1992.

(12) Any loss sustained as a result of the Fountain Fire that occurred in the County of Shasta, or as a result of either of the fires in the Counties of Calaveras and Trinity that occurred in August 1992, or any other related casualty.

1 (13) Any loss sustained as a result of storm, flooding, or any
2 other related casualty that occurred in the Counties of Alpine,
3 Contra Costa, Fresno, Humboldt, Imperial, Lassen, Los Angeles,
4 Madera, Mendocino, Modoc, Monterey, Napa, Orange, Plumas,
5 Riverside, San Bernardino, San Diego, Santa Barbara, Sierra,
6 Siskiyou, Sonoma, Tehama, Trinity, and Tulare, and the City of
7 Fillmore in January 1993.

8 (14) Any loss sustained as a result of a fire that occurred in the
9 Counties of Los Angeles, Orange, Riverside, San Bernardino, San
10 Diego, and Ventura, during October or November of 1993, or any
11 other related casualty.

12 (15) Any loss sustained as a result of the earthquake, aftershocks,
13 or any other related casualty that occurred in the Counties of Los
14 Angeles, Orange, and Ventura on or after January 17, 1994.

15 (16) Any loss sustained as a result of a fire that occurred in the
16 County of San Luis Obispo during August of 1994, or any other
17 related casualty.

18 (17) Any loss sustained as a result of the storms or flooding
19 occurring in 1995, or any other related casualty, sustained in any
20 county of this state subject to a disaster declaration with respect
21 to the storms and flooding.

22 (18) Any loss sustained as a result of the storms or flooding
23 occurring in December 1996 or January 1997, or any related
24 casualty, sustained in any county of this state subject to a disaster
25 declaration with respect to the storms or flooding.

26 (19) Any loss sustained as a result of the storms or flooding
27 occurring in February 1998, or any related casualty, sustained in
28 any county of this state subject to a disaster declaration with respect
29 to the storms or flooding.

30 (20) Any loss sustained as a result of a freeze occurring in the
31 winter of 1998–99, or any related casualty, sustained in any county
32 of this state subject to a disaster declaration with respect to the
33 freeze.

34 (21) Any loss sustained as a result of an earthquake occurring
35 in September 2000, that was included in the Governor's
36 proclamation of a state of emergency for the County of Napa.

37 (22) Any loss sustained as a result of the Middle River levee
38 break in San Joaquin County occurring in June 2004.

39 (23) Any losses sustained as a result of the fires that occurred
40 in the Counties of Los Angeles, Riverside, San Bernardino, San

1 Diego, and Ventura in October and November 2003, or as a result
2 of floods, mudflows, and debris flows, directly related to fires.

3 (24) Any losses sustained in the Counties of Santa Barbara and
4 San Luis Obispo as a result of the San Simeon earthquake,
5 aftershocks, and any other related casualties.

6 (25) Any losses sustained as a result of the wildfires that
7 occurred in Shasta County, commencing August 11, 2004, and
8 any other related casualty.

9 (26) Any loss sustained in the Counties of Kern, Los Angeles,
10 Orange, Riverside, San Bernardino, San Diego, Santa Barbara,
11 and Ventura as a result of the severe rainstorms, related flooding
12 and slides, and any other related casualties, that occurred in
13 December 2004, January 2005, February 2005, March 2005, or
14 June 2005.

15 (27) Any loss sustained in the Counties of Alameda, Alpine,
16 Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El
17 Dorado, Fresno, Humboldt, Kings, Lake, Lassen, Madera, Marin,
18 Mariposa, Mendocino, Merced, Monterey, Napa, Nevada, Placer,
19 Plumas, Sacramento, San Joaquin, San Luis Obispo, San Mateo,
20 Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus,
21 Sutter, Trinity, Tulare, Tuolumne, Yolo, and Yuba as a result of
22 the severe rainstorms, related flooding and slides, and any other
23 related casualties, that occurred in December 2005, January 2006,
24 March 2006, or April 2006.

25 (28) Any loss sustained in the County of San Bernardino as a
26 result of the wildfires that occurred in July 2006.

27 (29) Any loss sustained in the Counties of Riverside and Ventura
28 as a result of wildfires that occurred during the 2006 calendar year.

29 (30) Any loss sustained in the Counties of El Dorado, Fresno,
30 Imperial, Kern, Kings, Madera, Merced, Monterey, Riverside, San
31 Bernardino, San Diego, San Luis Obispo, Santa Barbara, Santa
32 Clara, Stanislaus, Tulare, Ventura, and Yuba that were the subject
33 of the Governor's proclamations of a state of emergency for the
34 severe freezing conditions that occurred in January 2007.

35 (31) Any loss sustained in the County of El Dorado as a result
36 of wildfires that occurred in June 2007.

37 (32) Any loss sustained in the Counties of Santa Barbara and
38 Ventura as a result of the Zaca Fire that occurred during the 2007
39 calendar year.

1 (33) Any loss sustained in the County of Inyo as a result of
2 wildfires that commenced in July 2007.

3 (34) Any loss sustained in the Counties of Los Angeles, Orange,
4 Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura
5 as a result of wildfires that occurred during the 2007 calendar year
6 that were the subject of the Governor's disaster proclamations of
7 September 15, 2007, and October 21, 2007.

8 (35) Any loss sustained in the County of Riverside as a result
9 of extremely strong and damaging winds that occurred in October
10 2007.

11 (36) Any loss sustained in the Counties of Butte, Kern,
12 Mariposa, Mendocino, Monterey, Plumas, Santa Clara, Santa Cruz,
13 Shasta, and Trinity as a result of wildfires that occurred in May or
14 June 2008 that were the subject of the Governor's proclamations
15 of a state of emergency.

16 (37) Any loss sustained in the County of Santa Barbara as a
17 result of wildfires that occurred in July 2008.

18 (38) Any loss sustained in the County of Inyo as a result of the
19 severe rainstorms, related flooding and landslides, and any other
20 related casualties, that occurred in July 2008.

21 (39) Any loss sustained in the County of Humboldt as a result
22 of wildfires that commenced in May 2008.

23 (40) Any loss sustained in the County of Santa Barbara as a
24 result of wildfires that commenced in November 2008.

25 (41) Any loss sustained in the Counties of Los Angeles and
26 Ventura as a result of wildfires that commenced in October 2008
27 or November 2008 that were the subject of the Governor's
28 proclamations of a state of emergency.

29 (42) Any loss sustained in the Counties of Orange, Riverside,
30 and San Bernardino as a result of wildfires that commenced in
31 November 2008.

32 (43) Any loss sustained in the County of Santa Barbara as a
33 result of wildfires that commenced in May 2009.

34 (44) *Any loss sustained as a result of a disaster that is the*
35 *subject of a Governor's proclamation of a state of emergency.*

36 (b) (1) In the case of any loss allowed under Section 165 of the
37 Internal Revenue Code, relating to losses, any excess disaster loss
38 shall be carried forward to each of the five taxable years following
39 the taxable year for which the loss is claimed. However, if there
40 is any excess disaster loss remaining after the five-year period,

1 then the applicable percentage, as set forth in paragraph (1) of
2 subdivision (b) of Section 24416, of that excess disaster loss shall
3 be carried forward to each of the next 10 taxable years.

4 (2) The entire amount of any excess disaster loss as defined in
5 subdivision (c) shall be carried to the earliest of the taxable years
6 to which, by reason of subdivision (b), the loss may be carried.
7 The portion of the loss which shall be carried to each of the other
8 taxable years shall be the excess, if any, of the amount of excess
9 disaster loss over the sum of the net income for each of the prior
10 taxable years to which that excess disaster loss is carried.

11 (c) "Excess disaster loss" means a disaster loss computed
12 pursuant to Section 165 of the Internal Revenue Code, which
13 exceeds the net income of the year of loss or, if the election under
14 Section 165(i) of the Internal Revenue Code is made, the net
15 income of the year preceding the loss.

16 (d) The provisions of this section and Section 165(i) of the
17 Internal Revenue Code shall be applicable to any of the losses
18 listed in subdivision (a) sustained in any county or city in this state
19 which was proclaimed by the Governor to be in a state of disaster.

20 (e) Any corporation subject to the provisions of Section 25101
21 or 25101.15 that has disaster losses pursuant to this section, shall
22 determine the excess disaster loss to be carried to other taxable
23 years under the principles specified in Section 25108 relating to
24 net operating losses.

25 (f) Losses allowable under this section may not be taken into
26 account in computing a net operating loss deduction under Section
27 172 of the Internal Revenue Code.

28 (g) For losses described in paragraphs (15) to ~~(43)~~ (44),
29 inclusive, of subdivision (a), the election under Section 165(i) of
30 the Internal Revenue Code may be made on a return or amended
31 return filed on or before the due date of the return (determined
32 with regard to extension) for the taxable year in which the disaster
33 occurred.

34 ~~SEC. 4.~~

35 *SEC. 6.* It is the intent of the Legislature to provide in the
36 annual Budget Act those additional reimbursements to local
37 governments that may, as a result of Section 3 of this act, be
38 required by Section 25 of Article XIII of the California
39 Constitution.

1 ~~SEC. 5.~~

2 *SEC. 7.* If the Commission on State Mandates determines that
3 this act contains costs mandated by the state, reimbursement to
4 local agencies and school districts for those costs shall be made
5 pursuant to Part 7 (commencing with Section 17500) of Division
6 4 of Title 2 of the Government Code.

O